

R E M A R K S / A R G U M E N T S

Reconsideration of the above-identified application respectfully requested. With the present amendment, all three independent claims 1, 17, and 32 have been amended to recite "a holographic diffraction grating including an array of superimposed facets, each of said facets carrying a diffraction grating(s) which are superimposed, each diffraction grating being angularly offset with respect to each other." This language is intended to clarify that the structure of the RDOE. The RDOE includes a plurality of facets that are superimposed, i.e., stacked in a vertical orientation. Because each facet comprises a diffraction grating, the resulting RDOE includes a stacked plurality of diffraction gratings.

No new matter is added by virtue of these claim amendments. Because this operation is inherent in the claimed structure, this amendment should not be considered a narrowing of the claims but rather a clarification. Therefore, Applicants assert that no claims have been narrowed with the meaning of *Festo* (*Festo Corp. v. Shoketsu Kinzoku Kogyo Kabushiki Co.*, 535 US 722, 112 S.Ct. 1831, 152 L.Ed.2d 944, 62 USPQ2d 1705 (2002)). See also *Interactive Pictures Corp. v. Infinite Pictures Inc.*, 274 F.3d 1371, 61 USPQ 1152 (Fed. Cir. 2001) (addition of the words "transform calculation" was not a narrowing amendment because that addition did nothing more than make express what had been implicit in the claim as originally worded).

Claims 1, 17, and 32 stand rejected under 35 U.S.C. § 103 as being unpatentable over U.S. Patent No. 5,450,512 issued to Asakura, in view of U.S. Patent No. 4,337,993, issued to Kompfner, and French Patent 2,538,131 issued to Essemli, et al.

The Examiner notes that Applicants utilized "(s)" in claims 1, 17, and 32 which has been interpreted to mean at least one or more of a particular element. As such, the Examiner considers that Applicants system may include a single holographic diffraction grating. With the amendments outlined above, Applicants' intent is to clarify that although a single holographic diffraction grating may be used, that holographic diffraction grating must include an array of superimposed facets, each facet carrying a diffraction grating. Thus, the resulting structure is a vertically stacked arrangement of diffraction gratings, each diffraction grating being angularly offset with respect to the others. This stacking arrangement is easily and efficiently achieved by developing the diffraction gratings on a holographic film to create the noted holographic diffraction grating.

As set forth in detail in Applicants' August 16, 2004 response, none of the references disclose or suggest the superimposed or stacked arrangement recited in the

claims. In view of this missing element, the claims cannot be obvious in view of Asakura, Kompfner, and Essemli.

Claim 3, dependent on claim 1, should be considered patentable for the reasons given above.

In view of the above, Applicants respectfully request that the claims be allowed.

Respectfully submitted,

Date:

May 25, 2005

Diane E. Burke

Diane E. Burke
Reg. No. 45,725
MUELLER AND SMITH, L.P.A.
Mueller-Smith Building
7700 Rivers Edge Drive
Columbus, Ohio 43235-1355
Tel.: 614-436-0600
Fax: 614-436-0057
email: dburke@muellersmith.com

CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited on May 25th, 2005 with the United States Postal Service as first class mail in an envelope addressed to:

Mail Stop Amendment
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Jane Keeney
Jane Keeney